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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/739,207

12/19/2003

Adolph Mondry

9870

47779

7590

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ADOLPH MONDRY  
753 VIRGINIA  
PLYMOUTH, MI 48170

EXAMINER

NATALINI, JEFF WILLIAM

ART UNIT

PAPER NUMBER

2858

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/739,207	<b>Applicant(s)</b> MONDRY, ADOLPH	
	<b>Examiner</b> JEFF NATALINI	<b>Art Unit</b> 2858	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is in response to the claims submitted 11/23/07. Applicant must identify all the claims in the application each time they are submitted. Identifying the status of every claim previously submitted in the application. Previously there were 34 claims in this application, so in the next claim amendment all 34 of those claims must be addressed, even if they are cancelled (for purposes of this action it is assumed claims 20-34 were cancelled). When amending a claim, all deleted subject matter must be crossed out, and new subject matter underlined. See MPEP 714. Also, it is suggested that the applicant may consider getting legal representation or at least consulting with an attorney to better construct the claim language.

### ***Drawings***

2. The drawings are objected to because in claim 1, there is on box labeled 2 and 7 and another box labeled 8 and 3. From the specification it is clear that 2 and 3 represent voltmeters, and 7 and 8 represent band pass filters, it would be more clear if there were two separate boxes connected together and labeled separately voltmeter and bandpass filter. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the

replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claims 1-19 are objected to because of the following informalities:

In regard to claims 1 and 11 and throughout all of the claims (which is why all the claims are listed as objected above), applicant uses language "the said", applicant should pick either "the" or "said" but only use this identifier once that object/verb/etc, has been introduced into the claim. For example: a claim could read: An apparatus, comprising: memory (1<sup>st</sup> instance of memory); wherein said memory (2<sup>nd</sup> instance of memory, and referring to the same memory as described in the first instance, so able to use said) stores data from a plurality of voltage measurements. All these instances of the wrong uses of 'said' are not listed, applicant is requested to amend all claims in this manner.

Some examples (line numbers refer to claim 1) include line 5 "the said voltage producing source" – the voltage producing source has already been introduced so this

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only needs to be changed to either 'said' or 'the'. Line 14-15, 'said voltage producing doses' and 'said positive electrode doses' were never previously introduced and "the said circuit" is unclear as connected circuits were introduced above but it is unclear if the claim language is referring to one of the previously mentioned attached circuits.

On line 9, "voltometer" is misspelled and should be voltmeter (should be corrected in the specification).

Line 25-26, "time interval has elapsed until the current said negative electrode voltage level of the voltage producing source attains", 'the current' should be deleted as it doesn't refer to anything, and seems like excess language.

Line 29, "the base state" has never been introduced in the claim language.

Line 31, "delivering the selected said voltage producing", should just be 'delivering the selected voltage'.

Appropriate correction is requested.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-19 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility or a well established utility.

Specifically claims 1 and 11, claim an apparatus and method, which is not statutory subject matter. Each claim must be directed to either a method or apparatus,

but not both. Please note that dependant claims must be directed to the same statutory class as the claims from which they depend.

Due to the unclear nature of the claims, prior art cannot be applied at this time.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner has listed for each claim, what is indefinite/unclear, and has made suggestions on how the claim would be better written. Applicant would be best suited to take a look at prior art patents and see how the claims in those patents are written. For example, please see Tarr et al. (6172368) which discloses a dosimeter; see method claims 1 and 4 which claims steps of monitoring and how the structure elements are placed in a method claim. See also claim 6, which is drawn only to an apparatus.

In regard to claims 1 and 11, on line 15-16 "said voltage producing source having a sequential plurality of said voltage producing doses and consequential said positive electrode voltage doses" is unclear, as a voltage source should "generate voltage" not "have voltage" and the use of sequential and consequential don't fit into the claim language of "said ...".

In regard to claims 4 and 5, stating "which a said plurality of said sequential positive", this should be changed to, for example "which a (possibly "the" depending on if it has been introduced in a previous claim) plurality of positive sequential electrode voltage doses are generated in fuel cells".

In regard to claims 6, 10, 14, and 18, these claims state 'a plurality of voltage doses are connected by logic switches'. Voltage doses are produced by a generator and cannot be connected. Voltage sources producing the doses can be connected and make the claim unclear.

In regard to claims 7 and 15, these claims state that a voltage level produces a voltage producing and an electrode voltage dose. The voltage level producing a voltage producing doesn't make sense.

Due to the indefinite nature of the claims (including the objections), prior art cannot be applied at this time.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFF NATALINI whose telephone number is (571)272-2266. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 571-272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff Natalini/  
Examiner, Art Unit 2858

/ANDREW H HIRSHFELD/  
Supervisory Patent Examiner, Art Unit 2858